THE HON'BLE Mr. JUSTICE C.V. RAMULU

W.P.No.19347 OF 1999

ORDER:-

This Writ Petition is filed by the workman being aggrieved by the Award dated 29.6.1998 made in I.A.No.11 of 1998 on the file of the Labour Court-III, Hyderabad, in so far as denial of back wages, while granting the relief of reinstatement with continuity of service, and all other attendant benefits.

It is the case of the petitioner that he joined the services of respondent-A.P. State Road Transport Corporation, as driver on 27.8.19987 and has been discharging his duties to the satisfaction of one and all. While so, when he was driving the bus bearing Registration Number- AAZ 7589 on route No.191 between Mohidipatnam-Jeedimetla on 4.10.1993 it met with an accident and one person who was crossing the road from right side touched the right side of the bus and fell down on the road and due to the road impact he sustained bleeding injuries. In respect of the said accident a criminal case vide C.C.No.304 of 1995 was registered against the petitioner under Section 304-A of Indian Penal Code, wherein he was acquitted of the said charge on 27.6.1996. Though there was no fault on the part of the petitioner, a charge-sheet was issued on 16.10.1993 initiating disciplinary proceedings against him. Not being satisfied with the explanation offered by the petitioner, departmental enquiry was ordered and Enquiry Officer after completion of enquiry, recorded finding holding that the petitioner is guilty of the charge. Basing on the enquiry report, disciplinary authority after following the procedure, passed orders on 9.3.1994 removing the petitioner from service. Aggrieved thereby, he filed an appeal and the same was dismissed on 26.12.1994. Having no other option, the petitioner filed an application under Section 2(A) 2 of the Industrial Disputes Act, 1947 before the Labour Court–III, Hyderabad and the same was taken on file as I.D.No.11 of 1995. The Labour court while appreciating the facts and circumstances and having held that the findings arrived at by the Enquiry Officer suffer from principles of natural justice, granted the relief of reinstatement with continuity of service and other attendant benefits. According to the petitioner, the Labour Court has erred in not granting back wages having found that the Enquiry Officer had erroneously found him guilty of the charges.

Though no counter-affidavit is filed, the learned counsel for the respondent strenuously contended that this is a case of negligence on the part of the driver which resulted in the death of one pedestrian and in case of accident, may be it is difficult to say who is right and who is wrong, but on the basis of the rough sketch of the scene of offence and also basing on other material placed before it, the disciplinary authority came to the conclusion that the charges are proved and the petitioner was found to be rash and negligent in driving the bus and was lacking anticipation about the movement of the pedestrian, and therefore, removed him from service of the Corporation. Thereafter, the Labour Court after appreciation of the material placed on record found that the Enquiry Officer while recording finding that the petitioner is guilty, violated the Principles of Natural Justice, and in the given circumstances of the case, while exercising its power under section 11-A of the Industrial Disputes Act, passed the impugned Award, which is just and proper and it does not call for any further interference by this Court for granting back wages which were denied by the Labour court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side, perused the Award and other material made available on record.

The Labour Court stated that the findings of the Enquiry Officer were mostly based on the rough sketch of the scene of offence, the Enquiry Office did not take into consideration the fact that the petitioner was acquitted of the criminal charge and though the same was brought to the notice of the appellate authority by the petitioner by way of review permitted under the Rules. Therefore, while taking the entire circumstances into consideration, the Labour Court found that the findings of the Enquiry Officer were not based on sound principles of natural justice and law and the 2nd respondent passing the order of removal from service basing on the report of the Enquiry Officer cannot be sustained. While setting aside the order of removal passed by the disciplinary authority, the Labour Court directed reinstatement of the petitioner into service with continuity of service and all attendant benefits, however denied back wages.

The contention of the learned counsel for the petitioner that the Labour Court while holding that in the circumstances of the case the findings of the Enquiry Officer were not based on sound principles of natural justice and law ought not to have

denied the back wages while setting aside the order of removal.

I am afraid, I cannot agree with the contention raised by the learned counsel for the respondent that the Labour Court has erred in denying the back wages. In this case, the accident itself is not denied nor the death of the pedestrian. It is sought to be explained that there is no negligence on the part of the petitioner being driver of the bus in causing the accident. It is true, in accident cases except rough sketch and some expert opinion, there cannot be any other evidence, which could be taken into consideration to bring home the guilt of the delinquent. The statements purported to have been made by the passengers of the bus cannot be taken into consideration since they are not expected to speak as to how the accident occurred and that there was no negligence on the part of the workman. I am of the opinion that the Labour Court itself has taken a lenient view in the matter. In fact, the Labour Court has not furnished any reasons for coming to the conclusion that the findings of the Enquiry Officer were not based on sound principles of natural justice and law.

For the aforesaid reasons, the petitioner is not entitled for any other relief. The Writ petition is devoid of merits and is liable to be dismissed and it is accordingly dismissed. No costs.

8th August, 2005.

Kgr

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

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WRIT PETITION No.19347 of 1999

Between:

Md. Rafiuddin ..... PETITIONER

AND

1. The Labour Court-III, 4th Floor, Chandravihar Building,

Nampally, Hyderabad, represented by its

Presiding Officer & Another.

.....RESPONDENTS